IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–NYSE–2010–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2010–22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2010–22 and should be submitted on or before April 22, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–7365 Filed 3–31–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61781; File No. SR–NSX–2010–02]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Rules on Self Trade Prevention Order Modifiers

March 25, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on March 23, 2010, National Stock Exchange, Inc. ("NSX" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the self-regulatory organization. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b-4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt a new Rule 11.11(c)(1) "Self Trade Prevention" Order Modifier that allows an ETP Holder to submit orders that may avoid trading against other orders of the same ETP Holder.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nsx.com*, on the Commission's Web site at *http://www.sec.gov,* at NSX, and at the Commission's Public Reference Room.

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a new Rule 11.11(c)(1) to make available to ETP Holders an order modifier that allows an ETP Holder to submit orders that may avoid trading against other orders of the same ETP Holder. The proposed changes are more fully discussed below.

Background

The proposed "Self Trade Prevention" ("STP") modifiers are instructions designed to prevent two orders with the same designated Unique Identifier (as defined below) from executing against each other. The ETP Holder elects at the time an STP modified order is submitted whether the new order, an existing order (which must also have been submitted with an STP modifier) or both orders will be cancelled (or rejected, as applicable) instead of otherwise interacting.

The Exchange proposes adding three STP modifiers that will be implemented and can be set at one of three identification levels: the market participant level (pursuant to the "MPID"), the FIX session level (pursuant to "FIX Session ID") or an ETP Holder's user level (pursuant to the "Party ID") (any such identifier, a "Unique Identifier").[5] The STP instruction on the incoming order controls the interaction between two orders marked with STP modifiers from the same Unique Identifier. The three new STP modifiers are discussed more thoroughly below.

[5] Each ETP Holder is issued a unique MPID identifier that allows the Exchange to determine the ETP Holder for each order and/or execution. The FIX Session ID is unique to each physical connection between the Exchange and an ETP Holder. The Party ID identifies a unique user of an ETP Holder.

STP Reject Newest ("STPN")

An incoming order marked with the STPN modifier will not execute against opposite side resting interest marked with any STP modifier originating from the same Unique Identifier. The incoming order marked with the STPN modifier will be rejected. The resting order marked with an STP modifier, which otherwise would have interacted with the incoming order from the same Unique Identifier, will remain on the NSX Book.

STPN Example 1: An order to buy 500 shares @ $22.00 is marked with any of the three STP modifiers and becomes a resting order on the NSX Book. Subsequently, an order to sell 500 shares @ $22.00 is entered with the same designated Unique Identifier and marked with the STPN modifier.

STPN Result 1: The incoming sell order for 500 shares @ $22.00 marked with the STPN modifier is rejected. The resting buy order for 500 shares at $22.00 marked with one of the three STP modifiers remains on the NSX Book.

STPN Example 2: An order to buy 500 shares @ $22.00 is marked with any of the three STP modifiers and becomes a resting order on the NSX Book. Subsequently, an order to sell 700 shares @ $22.00 is entered with the same Unique Identifier and marked with the STPN modifier.

STPN Result 2: The incoming sell order for 700 shares @ $22.00 marked with the STPN modifier is rejected. The resting buy order for 500 shares at $22.00 marked with one of the three STP modifiers remains on the NSX Book.

STPN Example 3: An order to buy 500 shares @ $22.00 is marked with any of the three STP modifiers and becomes a resting order on the NSX Book. Subsequently, an order to sell 400 shares @ $22.00 is entered with the same Unique Identifier and marked with the STPN modifier.

STPN Result 3: The incoming sell order for 400 shares @ $22.00 marked with the STPN modifier is rejected. The resting buy order for 500 shares at $22.00 marked with one of the three STP modifiers remains on the NSX Book.

STP Cancel Oldest ("STPO")

An incoming order marked with the STPO modifier will not execute against opposite side resting interest marked with any STP modifier originating from the same Unique Identifier. The resting order marked with the STP modifier, which otherwise would have interacted with the incoming order by the same Unique Identifier, will be cancelled. The incoming order marked with the STPO modifier will remain on the NSX Book.

STPO Example 1: An order to buy 500 shares @ $22.00 is marked with any of the three STP modifiers and becomes a resting order in the NSX Book. Subsequently, an order to sell 500 shares @ $22.00 is entered with the same Unique Identifier and marked with the STPO modifier.

STPO Result 1: The resting buy order for 500 shares at $22.00 marked with one of the three STP modifiers is cancelled. The incoming sell order for 500 shares @ $22.00 marked with the STPO modifier is entered in the NSX Book.

STPO Example 2: An order to buy 500 shares @ $22.00 is marked with any of the three STP modifiers and becomes a resting order in the NSX Book. Subsequently, an order to sell 700 shares @ $22.00 is entered with the same Unique Identifier and marked with the STPO modifier.

STPO Result 2: The resting buy order for 500 shares at $22.00 marked with one of the three STP modifiers is cancelled. The incoming sell order for 700 shares @ $22.00 marked with the STPO modifier is entered on the NSX Book.

STPO Example 3: An order to buy 500 shares @ $22.00 is marked with any of the three STP modifiers and becomes a resting order in the NSX Book. Subsequently, an order to sell 400 shares @ $22.00 is entered with the same Unique Identifier and marked with the STPO modifier.

STPO Result 3: The resting buy order for 500 shares at $22.00 marked with one of the three STP modifiers is cancelled. The incoming sell order for 400 shares @ $22.00 marked with the STPO modifier is entered on the NSX Book.

STP Cancel Both ("STPB")

An incoming order marked with the STPB modifier will not execute against opposite side resting interest marked with any STP modifier originating from the same Unique Identifier. The entire size of both orders will be rejected or cancelled, as applicable.

STPB Example 1: An order to buy 500 shares @ $22.00 is marked with any of the three STP modifiers and becomes a resting order in the NSX Book. Subsequently, an order to sell 500 shares @ $22.00 is entered with the same Unique Identifier and marked with the STPB modifier.

STPB Result 1: The resting buy order for 500 shares at $22.00 marked with one of the three STP modifiers is cancelled. The incoming sell order for 500 shares @ $22.00 marked with the STPB modifier is rejected.

STPB Example 2: An order to buy 500 shares @ $22.00 is marked with any of the three STP modifiers and becomes a resting order in the NSX Book. Subsequently, an order to sell 700 shares @ $22.00 is entered with the same Unique Identifier and marked with the STPB modifier.

STPB Result 2: The resting buy order for 500 shares at $22.00 marked with one of the three STP modifiers is cancelled. The incoming order to sell 700 shares @ $22.00 marked with the STPB modifier is rejected.

STPB Example 3: An order to buy 500 shares @ $22.00 is marked with any of the three STP modifiers and becomes a resting order in the NSX Book. Subsequently, an order to sell 400 shares @ $22.00 is entered with the same Unique Identifier and marked with the STPB modifier.

STPB Result 3: The resting buy order for 500 shares at $22.00 marked with one of the three STP modifiers is cancelled. The incoming order to sell 400 shares @ $22.00 marked with the STPB modifier is rejected.

Additional Discussion

STP modifiers are intended to prevent interaction between the same Unique Identifier. STP modifiers must be present on both the buy and the sell order in order to prevent a trade from occurring and to effect a cancel and/or reject instruction.

An incoming STP order cannot interact through resting orders that have price and/or time priority. When an order with an STP modifier is entered it will first interact with all available interest in accordance with the execution process described in Exchange Rules 11.14 and 11.15. If there is a remaining balance on the order after trading with all orders with higher priority, it may then interact with an opposite side STP order in accordance with the rules established above.

STP modifiers are available for orders entered in either an agency or principal capacity. An incoming STP modified Post Only order that is immediately marketable against a resting STP modified order of the same Unique Identifier will not be rejected upon entry; rather, the order will be accepted and processed according to the STP instructions.[6] STP orders that are not

[6] Without STP modifiers of the same Unique Identifier, an incoming marketable Post Only order would be rejected so as to prevent a locked market pursuant to NSX Rule 11.11(c)(5)(A). The incoming STP modified Post Only order is processed because, pursuant to the STP instruction, one or both of the

Continued

populated correctly will not reject, but will process according to the underlying order behavior. Zero Display Reserve Orders submitted with an STP modifier will be rejected.

The Exchange believes that adding this functionality will allow ETP Holders to better manage order flow and prevent undesirable executions with themselves or the potential for (or the appearance of) "wash sales" that may occur as a result of the velocity of trading in today's high speed marketplace. Many ETP Holders have multiple connections into the Exchange due to capacity and speed related demands. Orders routed by the same ETP Holder via different connections or in different capacities may, in certain circumstances, trade against each other. The new STP modifiers provide ETP Holders the opportunity to prevent these potentially undesirable trades occurring under the same Unique Identifier on both the buy and sell side of the execution.

The Exchange notes that the STP modifiers do not alleviate, or otherwise exempt, broker-dealers from their best execution obligations. Broker-dealers using the STP modifiers on agency orders will be obligated to execute those agency orders at the same price, or a better price than they would have received had the orders been executed on the Exchange. Finally, the Exchange notes that offering the STP modifiers will streamline certain regulatory functions by reducing inadvertent self-trade executions that would otherwise be captured by Exchange generated wash trading surveillance reports when orders are executed under the same Unique Identifier. The Exchange has developed a surveillance program to identify the use of the STP modifier on agency orders and to surveil such orders for potential misuse. For these reasons, the Exchange believes the STP modifiers offer ETP Holders enhanced order processing functionality that may prevent potentially undesirable executions without negatively impacting broker-dealer best execution obligations.

Effective Date

The Exchange requests that the effective date for the instant rule change be thirty days after the date of filing of this rule change, or such earlier date as the Commission determines.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5)[8] in particular in that it is designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change advances these objectives by making available to ETP Holders a type of order modifier that is in use within the national market system[9] and by allowing firms to better manage order flow and prevent undesirable executions against themselves.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[10] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b-4(f)(6) thereunder.[12] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NSX–2010–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR-NSX–2010–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal

orders will be cancelled and/or rejected, as applicable.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] *See* Securities Exchange Act Release No. 60266 (July 9, 2009), 74 FR 34380 (July 9, 2009) (SR–BATS–2009–022) (approving on an expedited basis a "Member Match Trade Prevention" order type pursuant to proposed BATS Rule 11.9(f)).

[10] As required under Rule 19b–4(f)(6)(iii), NSX provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSX–2010–02 and should be submitted on or before April 22, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–7364 Filed 3–31–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61788; File No. SR–NYSEAmex–2010–07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex, LLC Amending Its Fee Schedule

March 26, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 28, 2010, NYSE Amex LLC (“NYSE Amex” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Charges (the “Schedule”) effective February 1, 2010. The text of the proposed rule change is attached as Exhibit 5 to the 19b–4 form. A copy of this filing is available on the Exchange’s Web site at *http://www.nyse.com,* at the Exchange’s principal office and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Amex proposes a new pass-through Routing Surcharge designed to recover routing, clearing and transaction fees for the execution of orders routed to away exchanges. The Exchange will not assess a Routing Surcharge on Customer orders that do not incur a transaction charge at the away exchange.

The Exchange currently routes all orders that are marketable at the National Best Bid/Offer (“NBBO”), but not executable on NYSE Amex, immediately upon receipt, to the away market(s) at the NBBO. For any order executed as a result of routing out, the Exchange currently charges fees in the same manner as if the execution occurred on the Exchange. In the case of Customer orders, the Exchange charges no transaction fee for the execution, despite incurring costs that include clearing charges, routing charges, and in some instances transaction fees.

In recent months, particularly with the replacement of the old Intermarket Options Linkage Plan and the expansion of the Penny Pilot Program, the Exchange is experiencing a rise in the number of contracts that route out, with a related rise in costs incurred for routing such orders.[3] Effective February 1, 2010 NYSE Amex will introduce a new Routing Surcharge in order to pass through routing, clearing and transaction charges associated with orders routed to away markets. The Routing Surcharge will be assessed on all non-customer orders routed to away markets and on Customer orders that are charged transaction fees at the executing exchange. If the executing exchange does not charge a transaction fee for the execution of the Customer order, the Routing Surcharge will not be assessed. The Exchange believes these fees are reasonable and represent pass through charges incurred by the Exchange for routing orders to away markets and the cost borne by the Exchange of developing, operating and maintaining smart order routing technology. Customer orders that are not charged an execution fee at the away market will not be charged the Routing Surcharge because in those instances the Exchange is not charged a fee by its routing broker. The Routing Surcharge will be made up of (i) $0.11 per contract, and (ii) all actual charges assessed by the away exchange(s) (calculated on an order-by-order basis since different away exchanges charge different amounts). The Routing Surcharge is in addition to NYSE Amex’s customary execution fees applicable to the order. This fee structure is consistent with a similar fee charged by the CBOE.

The Exchange also proposes to change the Broker Dealer & Firm Electronic fee to $0.30 per contract (currently $0.15 per contract). In making this rate change the Exchange seeks to remain competitive with other markets that often charge a higher rate. In proposing this new rate, NYSE Amex also seeks to adopt industry practice which sets the electronic broker dealer rate at a level slightly higher than the manual broker dealer charge. The pricing convention sets a small premium on the electronic broker dealer rate while still providing savings to the trading participant who would otherwise have to pay brokerage fees to a floor broker if it chose to access our markets through a manual execution. The Exchange further notes that this fee was reduced from $0.45 to its current level in June 2009.

Finally, the Exchange’s Cancellation Fee is currently waived until February 1, 2010. Beginning February 1, 2010 the Exchange will begin charging the Cancellation Fee and proposes to remove language from the Schedule referencing the waiver.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the “Act”),[4] in general, and Section 6(b)(4) of the Act,[5] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The proposed fees are reasonable and apply equally to all ATP Holders.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This paragraph and the following paragraph were revised via an e-mail sent from Matthew Vaughn, Counsel Director of Compliance, NYSE Amex LLC, to Leah Mesfin, Special Counsel, Division of Trading and Markets, Commission, on February 22, 2010.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).